Supreme Court, U.S.
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(19) (18)

Nos. 00-1770 & 00-1781

In the Supreme Court of the United States

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, PETITIONER

v.

PEARLIE RUCKER, ET AL.

OAKLAND HOUSING AUTHORITY, ET AL., PETITIONERS

v.

PEARLIE RUCKER, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

JOINT APPENDIX

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PETITION FOR WRIT OF CERTIORARI FILED: MAY 24, 2001
CERTIORARI GRANTED: SEPTEMBER 25, 2001

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NOTICE

The following items appear on the following pages in the printed appendix to the petition for a writ of certiorari in No. 00-1770:

Court of appeals' opinion (Jan. 24, 2001)	1a
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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. 98-CV-781

PEARLIE RUCKER; HERMAN WALKER; WILLIE LEE; AND BARBARA HILL, PLAINTIFFS

v.

HAROLD DAVIS; OAKLAND HOUSING AUTHORITY; UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, DEFENDANTS

Filed: Feb. 27, 1998

DOCKET ENTRIES

DATE	DOCKET NUMBER	PROCEEDINGS
2/27/98	1	COMPLAINT: No Summons(es) issued; Fee status ifpp entered on 2/27/98 [3:98-cv-00781] (mh)

* * * * *

DATE	DOCKET NUMBER	PROCEEDINGS
3/4/98	4	FIRST AMENDED COMPLAINT [1-1] by Plaintiff; adding plaintiffs Herman Walker, Willie Lee, Barbara Hill, and defendants Oakland Housing Auth, HUD [3:98-cv-00871] (mcl) [Entry date 03/05/98]
		* * * * *
4/3/98	15	DECLARATION by Willie Lee on behalf of Plaintiffs re motion for preliminary injunction [14-1] [3:98-cv-00781] (mcl) [Entry date 04/06/98]
4/3/98	16	DECLARATION by Barbara Hill on behalf of Plaintiffs re motion for preliminary injunction [14-1] [3:98-cv-00781]
4/3/98	17	DECLARATION by Pearlie Rucker on behalf of Plaintiffs re motion for preliminary injunction [14-1] [3:98-cv-00781]

DATE	DOCKET NUMBER	PROCEEDINGS
4/3/98	18	DECLARATION by Herman Walker on behalf of Plaintiffs re motion for preliminary injunction [14-1] [3:98-cv-00781] (mcl) [Entry date 04/06/98]
		* * * * *
4/17/98	29	DECLARATION by Ron Smith on behalf of defendant Harold Davis, defendant Oakland Housing Auth in OPPOSITION to plaintiffs' motion for preliminary injunction [14-1] [3:98-cv-00781] (mcl) [Entry date 04/02/98]
		* * * * *
6/19/98	53	MEMORANDUM, ORDER AND PRELIMINARY INJUNCTION: by Judge Charles R. Breyer granting in part and denying in part defendant Oakland Housing Authority's motion to dismiss for failure to state a claim [31-1] WITH 30 DAYS' LEAVE TO AMEND, granting in part and denying in part defendant

DATE	DOCKET NUMBER	PROCEEDINGS
		Housing and Urban Development's motion to dismiss case [22-1] that defendant Oakland Housing Authority, its officers, agents, servants . . . are preliminarily enjoined, until further order of this Court, from terminating the leases of tenants for drug-related criminal activity that does not occur within the tenant's apartment until . . . that defendant OHA, its officers, agents, servants . . . are preliminarily enjoined, until further order of this Court, from prosecuting the Oakland -Piedmont-Emeryville Judicial District, Alameda County eviction proceedings . . . (see document) (Date Entered: 6/24/98) (cc: all counsel [3:98-cv-00781] (mcl) [Entry date 06/24/98]

* * * * *

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Nos. 98-16322 AND 98-16542

PEARLIE RUCKER; HERMAN WALKER; WILLIE LEE; AND BARBARA HILL, PLAINTIFFS-APPELLEES

v.

HAROLD DAVIS; OAKLAND HOUSING AUTHORITY; UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, DEFENDANTS-APPELLANTS

Filed: July 20, 1998

DOCKET ENTRIES

DATE	PROCEEDINGS
7/20/98	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL [98-16322]. * * *
	* * * * *
8/13/98	Filed original and 15 copies Appellant U.S. Dept. of HUD opening brief * * *.
	* * * * *
8/25/98	DOCKETED CASE AND ENTERED APPEARANCE of counsel [98-16542].

DATE	PROCEEDINGS
8/27/98	Filed order * * * These two appeals are related appeals from the DC's preliminary inj order. Ninth Cir R 3-3 applies to these appeals. The court sua sponte consolidates these appeals. * * *.
9/15/98	Filed original and 15 copies Appellant Harold Davis & Oakland Housing * * *.
	* * * * *
10/6/98	Received Amicus Center for The Community Interest brief * * *
	* * * * *
10/28/98	Filed original and 15 copies appellees' 43 pages brief * * *
	* * * * *
12/10/98	Filed original and 15 copies Harold Davis' & Oakland Housing reply brief * * *
12/15/98	Filed original and 15 copies U.S. Dept. of HUD reply brief, * * *
	* * * * *
2/17/99	Filed original and 15 copies Appellees' supplemental brief in response to amicus brief * * *

DATE	PROCEEDINGS
3/12/99	ARGUED AND SUBMITTED * * *
4/2/99	Filed order (Joseph T. Sneed, Diarmuid F. O'Scannlain, William A. FLETCHER): The parties are requested to file within 14 days of this order briefs of not more than 3,500 words each discussing their respective positions on the relevance of 21 USC 881(a)(7), as well as the amendments made thereto by the Anti-Drug Act of 1988, to the interpretation of 45 USC 1437d(1)(5). Specifically, is the "knowledge or consent of that owner" provision in section 881(a)(7), relating to forfeitures, incorporated into section 1437d(1)(d), relating to leaseholds? * * *
4/16/99	Filed original and 15 copies Appellant U.S. Dept. of HUD's supplemental brief of 7 pages * * *
4/16/99	Filed original and 15 copies Appellants Harold Davis & Oakland Housing in 98-16542 supplemental brief of 7 pages * * *
4/16/99	Filed original and 15 copies Appellees' in 98-16322 supplemental brief of 17 pages * * *
2/14/00	FILED OPINION: The order granting the preliminary injunction is REVERSED, and the preliminary injunction is VACATED. * * *

DATE	PROCEEDINGS
	* * * * *
8/18/00	Filed order FOR PUBLICATION (Procter R. HUG): Upon the vote of a majority of nonrecused regular active judges of this court, it is ordered that this case be reheard by the en banc court pursuant to Cir.R. 35-3. The three-judge panel opinion shall not be cited as precedent by or to this court or any district court of the 9th Cir., except to the extent adopted by the en banc court. * * *
	* * * * *
9/15/00	Filed original and 20 copies Oakland Housing supplemental brief * * *
9/18/	Filed original and 15 copies Appellees Pearlie Rucker Herman Walker Willie Lee, Barbara Hill supplemental brief * * *
	* * * * *
9/19/00	ARGUED AND SUBMITTED TO Joseph T. SNEED, Mary M. SCHROEDER, Harry PREGERSON, Stephen R. REINHARDT, Ferdinand F. FERNANDEZ, Thomas G. NELSON, Michael D. HAWKINS, Barry G. SILVERMAN, M. M. MCKEOWN, Ronald M. GOULD, Richard A. PAEZ * * *

DATE	PROCEEDINGS
1/24/01	FILED OPINION: AFFIRMED * * *
	* * * * *

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

No. C-98-00781 CRB

PEARLIE RUCKER, HERMAN WALKER, WILLIE LEE, AND BARBARA HILL, PLAINTIFFS

v.

HAROLD DAVIS, OAKLAND HOUSING AUTHORITY, UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, DOES I-XXX, DEFENDANTS

[Filed: Mar. 4, 1998]

FIRST AMENDED COMPLAINT FOR INJUNCTIVE RELIEF AND DECLARATORY RELIEF

JURISDICTION

PLAINTIFFS PEARLIE RUCKER, HERMAN WALKER, WILLIE LEE and BARBARA HILL complain against HAROLD DAVIS, OAKLAND HOUSING AUTHORITY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND DOES I-XXX, and allege:

JURISDICTION

This court has jurisdiction pursuant to 28 U.S.C. 1331 (federal question involving interpretation of federal statute) and 28 U.S.C. 1343 (deprivation of civil rights)

INTRADISTRICT ASSIGNMENT

This matter is properly assigned to the Northern District of California, Oakland Division, because the events took place in Oakland, Alameda County, California, within the Oakland Division of the Northern District. (L-R 3-2 (d).)

PARTIES

1. PLAINTIFF PEARLIE RUCKER, HERMAN WALKER, WILLIE LEE AND BARBARA HILL are citizens of the United States and reside in the State of California, City of Oakland, Alameda County.

2. DEFENDANT HAROLD DAVIS is, and at all pertinent times was, the chief of the Oakland Housing Authority. He is sued in his official capacity. DEFENDANT OAKLAND HOUSING AUTHORITY is the lessor of the homes in which the plaintiffs reside in the City of Oakland. They administer these homes through a contract with the DEFENDANT UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

3. The identities of DEFENDANTS DOES 1-50 are unknown to PLAINTIFFS, who request leave to amend this complaint when that information is obtained.

4. PLAINTIFFS are unaware of the identities and capacities of DOES 1-50 at this time, and request leave to amend this complaint when this information is ascertained.

SUMMARY OF FACTS

PLAINTIFF PEARLIE RUCKER

5. PLAINTIFF PEARLIE RUCKER resides at 2005 E. 21st Street, Apt. 102, Oakland, California (hereinafter, the Rucker Premises) under a written lease with the lessor DEFENDANT OAKLAND HOUSING AUTHORITY, headed by DEFENDANT HAROLD DAVIS. PLAINTIFF RUCKER is 63 years old, with no history of criminal violations or drug use, and has resided in the premises since 1985. Residing at the Rucker Premises is her daughter Gelinda Rucker and Gelinda's two daughters and one granddaughter. Gelinda receives Supplemental Security Income benefits for a mental disability she has had since birth. She is incapable of adequately caring for herself or for her children. PLAINTIFF RUCKER is the primary care giver for the entire family.

6. PLAINTIFF RUCKER's adult son, Michael Rucker, does not reside at the Rucker Premises, and has not resided there since the early 1980s.

7. On December 31, 1997, DEFENDANT OAKLAND HOUSING AUTHORITY filed a complaint alleging unlawful detainer of the Rucker Premises by PLAINTIFF RUCKER, in the Municipal Court for the State of California, Alameda County, Oakland-Piedmont-Emeryville Judicial District, *Oakland Housing Authority v. Rucker*, Case #012528 (hereafter, the Rucker complaint). The Rucker complaint sought, with other relief, termination and forfeiture of PLAINTIFF RUCKER's lease, and her eviction. The primary basis of this suit is that the PLAINTIFF violated the assurance that no family members, guests, or other persons under her control

would engage in drug-related criminal activity on or near the premises.

8. Along with other allegations, the complaint alleges in substance:

> On March 9, 1997, a Housing Authority officer on patrol in the 2200 block of E. 19th Street (note: approximately three blocks from the Rucker Premises) observed Gelinda drinking an alcoholic beverage in public. When the officer contacted Gelinda, she attempted to conceal the alcohol. Gelinda appeared to be under the influence and was arrested for being drunk in public. A search of Gelinda revealed one rock of suspected cocaine and a crack cocaine pipe. Gelinda gave Rucker's address as her residence.
>
> On September 19, 1997, Oakland police officers on patrol in the 1400 block of 23rd Avenue, Oakland (note: approximately eight blocks from the Rucker premises) saw Michael loitering at a bus stop with a second man. Michael was contacted and subsequently arrested for a warrant. When they searched Michael, the officers found a piece of rock cocaine. Michael gave the Premises as his residence.

9. This DEFENDANT and DEFENDANT DAVIS dismissed the complaint on February 17, 1998. However, these DEFENDANTS have indicated that they construe the quoted lease provision to permit eviction of PLAINTIFF RUCKER irrespective of Mrs. Rucker's personal involvement in, knowledge of, or actual ability to prevent drug-related criminal activity. PLAINTIFF RUCKER has no control over the acts of Michael

Rucker, and is limited in her ability to control the acts of Gelinda Rucker, due to Gelinda's mental disability.

10. For the past seven years, Pearlie Rucker has searched the room of Gelinda Rucker looking for evidence of alcohol and drug use. She has never found any drugs or drug paraphernalia. Pearlie Rucker has never seen Gelinda physically manifest any sign of drug use. She has warned Gelinda and others that any drug use or criminal activity on the premises can result in eviction. See the Declaration of Pearlie Rucker.

PLAINTIFF HERMAN WALKER

11. PLAINTIFF HERMAN WALKER is 75 years old and disabled. The left side of his body, particularly his left hand, is stiff and semi-paralyzed. He is hard of hearing, has problems walking, usually needs a cane, and is periodically put on oxygen due to shortness of breath. He is no longer capable of living independently and requires an in-home health care taker.

12. PLAINTIFF WALKER resides at 1621 Harrison Street #1309, Oakland, California, and has lived at his premises for 8 years. He lives in the "Senior Housing" units of the Oakland Housing Authority. The unlawful detainer action filed against him by the Oakland Housing Authority contains no allegations that he personally engaged in drug-related criminal activity or that he knew of such activity.

13. In later 1977, the DEFENDANT OAKLAND HOUSING AUTHORITY filed a complaint alleging unlawful detainer of the Walker Premises by PLAINTIFF WALKER, in the Municipal Court for the State of California, Alameda County, Oakland-Piedmont-Emeryville Judicial District, *Oakland Housing Authority v.*

[*Walker*], Case #011040 (hereafter, the Walker complaint). The Walker complaint sought, with other relief, termination and forfeiture of PLAINTIFF RUCKER's lease, and his eviction. The primary basis of this suit is that the PLAINTIFF violated the assurance that no family members, guests, or other persons under his control would engage in drug-related criminal activity on or near the premises.

14. Along with other allegations, the unlawful detainer complaint alleges:

> On August 7, 1997, Oakland Housing Authority officers conducting a security check at your complex, which is a senior citizen building, contacted Kelly Shine. Shine, who was not a senior citizen and very fidgety showed signs of being a narcotics user. Officers conducted [*sic*] Shine and a check was conducted. Officers discovered that Shine is on probation with a search clause for narcotics. Officers invoked the search privilege recovering one rock of cocaine and a cocaine pipe. Shine was arrested for possession of narcotics and paraphernalia. Shine told officers she was at your unit with a friend who lived with you. You are the only resident listed on the lease. Officers went to your unit and contacted you. You gave officers permission to search your unit, and once inside they contacted Shine's minor child, Shirley Hardaway, who was wearing a thin nightgown and appeared to be residing in your unit, Marguerite Wise and Eleanor Randle, who has had several narcotics arrests at your complex.
>
> As officers searched your unit, they recovered a cardboard box inside your bedroom containing a plate with suspected rock cocaine chips and four

metal crack cocaine pipes. Randle, who had a cocaine pipe pinned inside her jacket, was arrested for possession of narcotics paraphernalia. In addition, officers observed a large amount of women's clothing and personal items throughout your unit. You denied that anyone was residing with you. A lease violation was drafted.

A week later, August 12, 1997, OHA officers and your housing manager returned to your unit to conduct a follow-up check. During the August 7 contact with you, officers had observed a sign posted on your front door stating "oxygen no smoking". However, your guests were smoking inside your unit. During that contact officers also observed an oxygen machine and several oxygen bottles. As officers and your manager entered your unit with your permission, they again contacted Hardaway in your bedroom wearing a night gown and robe. You again denied that Hardaway resided in your unit. Officers found a rock cocaine pipe inside a bag of hair rollers. As officers informed you of the paraphernalia you stated, you could not control what people brought into your unit. A lease violation was drafted.

On October 11, 1997, Oakland Housing authority officers conducting a security check inside your complex, contacted Eleanor Randle in the lobby area. Randle told offices she had just left your unit and her friend Shirley Hardaway was still inside your unit. Officers were aware of Randle's narcotics activity and prior arrest at your unit. Officers contacted you in your unit and you consented to a search. Once inside, officers contacted Shirley Hardaway sitting on a sofa in your living room.

Hardaway was asked to sit in another area as officers conducted their search. In the creases of your sofa where Hardaway had been sitting officers recovered a glass concaine pipe. Hardaway admitted to using rock cocaine, but denied that the pipe belonged to her. Hardaway was cited for possession of narcotics paraphernalia.

15. PLAINTIFF WALKER fired his in-home caretaker Eleanor Randle shortly after he learned that she had been accused of drug activity in his apartment. See the Declaration of Herman Walker. DEFENDANT OAKLAND HOUSING AUTHORITY's eviction suit against PLAINTIFF WALKER is awaiting trial.

PLAINTIFF WILLIE LEE

16. Willie Lee is 71 years old and has been an Oakland Housing Authority resident for 25 years. There is no allegation by Oakland Housing Authority that she participated in any illegal drug activity or knew of any illegal drug activity.

17. In early 1998, the DEFENDANT OAKLAND HOUSING AUTHORITY filed a complaint alleging unlawful detainer of the Lee Premises by PLAINTIFF LEE, in the Municipal Court for the State of California, Alameda County, Oakland-Piedmont-Emeryville Judicial District, *Oakland Housing Authority v. Lee*, Case #013197 (hereafter, the Lee complaint). The Lee complaint sought, with other relief, termination and forfeiture of PLAINTIFF LEE's lease, and her eviction. The primary basis of this suit is that the PLAINTIFF violated the assurance that no family members, guests, or other persons under her control would engage in drug-related criminal activity on or near the premises.

18. Along with other allegations, the complaint alleges:

> On November 6, 1997, Oakland Housing Authority officers responding to complaints of individuals using narcotics and loitering in the parking lot area of the complex, contacted your grandson Robert Lee, who is listed on your lease as a resident. As officers approached, Lee discarded a marijuana cigarette. He was informed of the complaint and admitted to smoking marijuana. A search of Lee's left front jacket revealed a ziplock baggie containing marijuana. Lee was cited for possession of marijuana.

19. The complaint did not allege that PLAINTIFF WILLIE LEE was personally guilty of, or had any prior knowledge of the illegal drug activity alleged in the complaint as the basis for the eviction.

20. PLAINTIFF LEE has warned her household that any drug use or criminal activity on the premises can result in eviction. See the Declaration of Willie Lee. DEFENDANT OAKLAND HOUSING AUTHORITY's eviction suit against PLAINTIFF LEE is awaiting trial.

PLAINTIFF BARBARA HILL

21. PLAINTIFF BARBARA HILL is 63 years old and has lived at her premises for approximately 30 years. There is no allegation by Oakland Housing Authority that she participated in any illegal drug activity or knew of any illegal drug activity.

22. In early 1998, the DEFENDANT OAKLAND HOUSING AUTHORITY filed a complaint alleging unlawful detainer of the Hill Premises by PLAINTIFF HILL,

in the Municipal Court for the State of California, Alameda County, Oakland-Piedmont-Emeryville Judicial District, *Oakland Housing Authority v. Hill*, Case #013198 (hereafter, the Hill complaint). The Hill complaint sought, with other relief, termination and forfeiture of PLAINTIFF HILL's lease, and her eviction. The primary basis of this suit is that the PLAINTIFF violated the assurance that no family members, guests, or other persons under her control would engage in drug-related criminal activity on or near the premises.

23. Along with other allegations, the complaint alleges:

> On November 6, 1997, Oakland Housing Authority officers responding to complaints of individuals using narcotics and loitering in the parking lot area of the complex, contacted your grandson Donte McPherson, who is listed on your lease as a resident. As officers approached, one of the individuals with your grandson discarded a suspected marijuana cigarette. McPherson was informed of the complaint and admitted to smoking marijuana. A lease violation was submitted.

24. PLAINTIFF HILL has warned her household that any drug use or criminal activity on the premises can result in eviction. See the Declaration of Barbara Hill. DEFENDANT OAKLAND HOUSING AUTHORITY's eviction suit against PLAINTIFF HILL is awaiting trial.

FACTS COMMON TO ALL PLAINTIFFS

25. All of the PLAINTIFFS have written leases with the DEFENDANT OAKLAND HOUSING AUTHORITY. Each of the PLAINTIFFS has been sued by this DEFENDANT based on the allegation that drug-related

criminal activity has been committed by one of their family or household members on or near the premises.

26. None of these unlawful detainer actions allege that the PLAINTIFFS had any prior knowledge of the alleged drug-related criminal activity or that the PLAINTIFFS personally engaged in drug-related criminal activity.

27. The PLAINTIFFS did not engage in such activity, nor did they have any knowledge of it occurring in the home or on the premises, nor did they permit its occurrence. Each of them denied participation or knowledge of such activity in their answers to the unlawful detainer complaints and in the Declarations submitted in this action.

28. Each of the plaintiffs also informed all of their household members that drug-related criminal activity is not permitted in their home or on the premises. Herman Walker, who lives alone, informed his family members, his caretakers, and his guests.

29. Each of the unlawful detainer complaints alleges that one of the Plaintiffs violated the following portions of the lease agreement:

> Paragraph 9: m. To assure that tenant, any member of the household, a guest, or another person under the tenant's control, shall not engage in:
>
> (i) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other public housing residents, or threatens the health and safety of the housing authority employees . . .

> (ii) Any drug-related criminal activity on or near the premises . . .

30. These lease terms were mandated by the DEFENDANT UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, which issued 24 C.F.R. 966.4(f)(12), which mandates that all public housing authority leases contain a clause stating that the leaseholders "assure" that the "tenant, members of the tenant's household, guests, or other persons under the tenant's control" will not engage in "drug-related criminal activity on or near the premises," and that any violation of this assurance will be the basis for violation.

FIRST CAUSE OF ACTION
(42 U.S.C. 1983)

31. PLAINTIFFS incorporate by reference the allegations in Paragraphs 1-30, above.

32. By their acts and omissions, working in concert, DEFENDANTS have acted under color of state law in violating and threatening to further violate PLAINTIFFS' rights under the United States Constitution, as well as the provisions of 42 U.S.C. 1437, *et seq.* Accordingly, PLAINTIFF RUCKER seeks declaratory relief as prayed for below, and PLAINTIFFS WALKER, HILL and LEE seek injunctive relief and declaratory relief as prayed for below.

SECOND CAUSE OF ACTION
(5 U.S.C. 701, *et seq.*)

33. PLAINTIFFS incorporate by reference the allegations in Paragraphs 1-32, above.

34. DEFENDANT UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, has violated

the Administrative Procedure Act (5 U.S.C. 701-706) by acts or omissions that are inconsistent with the applicable statutory and regulatory provisions. Such acts include the issuance of 24 C.F.R. 966.4(f)(12). Accordingly, PLAINTIFF RUCKER seeks declaratory relief as prayed for below, and PLAINTIFFS WALKER, HILL and LEE injunctive relief and declaratory relief as prayed for below.

THIRD CAUSE OF ACTION
(42 U.S.C. 2101, *et seq.*)

35. PLAINTIFFS incorporate by reference the allegations in Paragraphs 1-34, above.

36. The Americans With Disabilities Act (42 U.S.C. Chapter 126) protects disabled persons from discrimination in public accommodations. PLAINTIFF HERMAN WALKER and PLAINTIFF PEARLIE RUCKER's daughter Gelinda are both "disabled" as defined in 42 U.S.C. 12102(2).

37. 42 U.S.C. 12312 provides that "no qualified individual with a disability shall by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. § 12132.

38. Discrimination includes: "Failure to make *reasonable accommodations* in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities." 42 U.S.C. § 12182(b)(2)(A)(ii). These obligations are specifically applied by regulation to public housing

agencies such as the Oakland Housing Authority. See, 24 C.F.R. Subtitle A Part 9.

39. Discrimination also includes: ". . . to deny goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual because of the known disability of an individual with whom the individual is known to have a relationship or association." 42 U.S.C. 12182(b)(1)(E).

40. This statutory scheme requires DEFENDANTS DAVIS and OAKLAND HOUSING AUTHORITY to make the reasonable accommodation of exempting PLAINTIFF WALKER and PLAINTIFF RUCKER from Lease Paragraph 9. Evicting PLAINTIFF WALKER and PLAINTIFF RUCKER for failure to comply with the Lease Paragraph 9—where the physically cannot comply due to his physical disabilities, and she is a homemaker raising her mentally disabled daughter's children but unable to control the daughter's actions when outside the premises—constitutes deprivation of housing based on disability and discrimination in violation of the ADA.

41. This statutory scheme also requires that DEFENDANT UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT make reasonable accommodations in the regulatory scheme to accommodate these PLAINTIFFS. PLAINTIFF RUCKER seeks declaratory relief and PLAINTIFF WALKER seeks injunctive and declaratory relief as set forth below.

FOURTH CAUSE OF ACTION
(Illegal contract)

42. PLAINTIFFS incorporate by reference the allegations in Paragraph 1-41, above.

43. The leases provided to PLAINTIFFS by the DEFENDANT DAVIS and OAKLAND HOUSING AUTHORITY constitute a contract of adhesion, and contains unconscionable contractual terms. Hence, these leases are illegal and unenforceable.

PRAYER

PLAINTIFFS seek the following injunctive relief from the court:

1. Preliminary injunctive relief ordering the Defendant Davis and Oakland Housing Authority to cease and desist, now and in the future, from all attempts to conduct evictions without good cause, founded on allegations and proof of such good cause, and of the tenant's personal participation in, prior knowledge of, and actual ability to prevent drug-related or other criminal activity;

2. Preliminary injunctive relief requiring the Oakland Housing Authority to exempt Herman Walker and Pearlie Rucker from Lease Paragraph 9, pursuant to the mandate of the Americans With Disabilities Act (42 U.S.C. Section 12312, et seq.) to make "reasonable accommodations" to people with disabilities.

3. Preliminary injunctive relief halting the state court eviction cases in *Oakland Housing Authority v. Walker*, action 011040, *Oakland Housing Authority v. Hill*, action 013198; and *Oakland Housing Authority v. Lee*, action 013197; all in the Oakland-Piedmont-Emery-

ville Judicial District, Alameda County, State California; until the issues in this suit are resolved.

4. Preliminary injunctive relief staying the enforcement of 24 C.F.R. 966.4(f)(12) on statutory and constitutional grounds; this regulation mandates that all OHA leases contain a clause stating that the leaseholders "assure" that the "tenant, member of the tenant's household, guests, or other persons under the tenant's control" will not engage in "drug-related criminal activity on or near the premises", and that any violation of this assurance will be the basis for eviction.

5. Preliminary injunctive relief staying enforcement of any provision in HUD and OHA leases and contracts that permits evictions based on drug-related or other criminal activity to be conducted without good cause, that is founded on allegations and proof of such good cause, and on the tenant's personal participation in, prior knowledge of, and actual ability to prevent drug-related or other criminal activity;

6. A declaration that 24 C.F.R. 966.4(f)(12) is both illegal and unconstitutional;

7. A declaration that DEFENDANTS DAVIS and the OAKLAND HOUSING AUTHORITY must cease and desist, now and in the future, from all attempts to conduct evictions based on drug-related or other criminal activity without good cause, founded on allegations and proof of such good cause, that a tenant personally participated in, had prior knowledge of, and the actual ability to prevent criminal activity on the premises.

8. A declaration that the acts and omissions of DEFENDANTS constitutes violations of the United States Constitution and the provisions of 42 U.S.C. 1437, et seq.

9. Attorneys' fees pursuant to 42 U.S.C. 1988, 42 U.S.C. 12101 *et seq.*, and California Civil Code 1717, and

10. Costs of this action;

11. Such other relief as the Court deems just and equitable.

Dated: March 3, 1998

/s/ WILLIAM M. SIMPICH
WILLIAM M. SIMPICH
Attorney for PLAINTIFF

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-98-00781

PEARLIE RUCKER, ET AL., PLAINTIFFS

v.

HAROLD DAVIS, ET AL., DEFENDANTS

[Filed Apr. 17, 1998]

Date: May 8, 1998
Time: 10:00 a.m.
Ctrm: 8

DEFENDANTS HAROLD DAVIS AND OAKLAND HOUSING AUTHORITY'S REQUEST FOR JUDICIAL NOTICE

Defendants HAROLD DAVIS and Oakland Housing Authority ("OHA"), by and through their attorneys, hereby request the Court to take judicial notice pursuant to Federal Rule of Evidence 201 of the following facts:

1. Plaintiffs' counsel in the instant case, Mr. John Murcko, also represented the plaintiffs in a lawsuit against the OHA entitled *Alice Oliver et al. v. Oakland Housing Authority et al.*, Alameda County Municipal Court No. 574817, ("*Oliver v. OHA*") wherein Mr. Murcko alleged that OHA's public housing constituted a nuisance as a result of "lack of security for tenants by

the allowance of drug dealers." (A true and correct copy of the First Supplemental Complaint for Damages dated January 27, 1997 in that matter is attached hereto as Exhibit "A". See Paragraph 32, subparagraph g, page 15 therein for the reference to drug dealers.)

2. During the deposition of Patricia Blackwell, one of the public housing tenant-plaintiffs in the *Oliver v. OHA* matter, on January 3, 1997, Mr. Murcko stated,

> The law is that a landlord has to provide security. If there's drug problems, the law says the landlord has to eliminate that problem. That's the law ma'am. That is the law. [Blackwell Depo. 45:11-14]

3. The deponent, Ms. Blackwell, indicated that as a tenant of public housing, she would like to see OHA take action to rid public housing of tenants who are dealing drugs, as follows,

> Q: What do you expect OHA, your landlord, to do about drug dealers?
>
> . . .
>
> A: I expect them to have them removed. [Blackwell Depo. 47:14-18]

4. True and correct copies of relevant pages of the deposition transcript of Patricia Blackwell are attached hereto as Exhibit "B". The original of this deposition

transcript has been lodged with the Court and is part of the file *Oliver v. OHA*.

Dated: April 16, 1998 Respectfully sumbitted

LAFAYETTE, KUMAGAI & CLARKE

/s/ SUSAN T. KUMAGAI
SUSAN T. KUMAGAI
Attorneys for Defendants
HAROLD DAVIS and OAKLAND HOUSING AUTHORITY

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

No. C-98-00781 CRB

PEARLIE RUCKER; HERMAN WALKER; WILLIE LEE AND BARBARA HILL, PLAINTIFFS

v.

HAROLD DAVIS; OAKLAND HOUSING AUTHORITY; UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, DOES I-XXX, DEFENDANTS

[DATE: May 8, 1998
TIME: 10 a.m.
DEPT.: 8 [illegible] Fl.]

DECLARATION OF BARBARA HILL IN SUPPORT OF MOTION FOR INJUNCTIVE RELIEF

DECLARATION OF BARBARA HILL

I, Barbara Hill, depose and say;

1. I am a tenant at 5120 Shafter Ave. #1, in Oakland, CA 94618. I am 63 years old. I have been a tenant there for about 30 years.

2. My landlord is the Oakland Housing Authority.

3. I have been served a summons and complaint in an unlawful detainer action, *Oakland Housing Authority v.* [*Hill*], case #013198, Oakland-Piedmont-Emeryville Judicial District, seeking my eviction.

4. The unlawful detainer complaint alleges that:

> On November 6, 1997, Oakland Housing Authority officers responding to complaints of individuals using narcotics and loitering in the parking lot area of the complex, contacted your grandson Donte McPherson, who is listed on your lease as a resident. As officers approached, one of the individuals with your grandson discarded a suspected marijuana cigarette. McPherson was informed of the complaint and admitted to smoking marijuana. A lease violation was submitted.

5. I have answered the unlawful detainer complaint denying the allegations.

6. The complaint does not allege that I had any prior knowledge of the alleged criminal activity or that I personally engaged in criminal activity, which is the basis of the eviction action.

7. I did not engage in any criminal drug activity. I had no knowledge of any criminal drug activity occuring on the premises. I did not permit activity or cause other others to engage in activity, because I had no knowledge of any activity.

8. I have informed the members of my household numerous times that no drug related or criminal activity is permitted in my home or on the premises.

I declare that the preceding is true and correct to the best of my knowledge and recollection under the penalty of perjury. Executed in Oakland on February 26, 1998.

/s/ BARBARA HILL
BARBARA HILL

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

No. C-98-00781 CRB

PEARLIE RUCKER; HERMAN WALKER; WILLIE LEE AND BARBARA HILL, PLAINTIFFS

v.

HAROLD DAVIS; OAKLAND HOUSING AUTHORITY; UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, DOES I-XXX, DEFENDANTS

[DATE: May 8, 1998
TIME: 10 a.m.
DEPT.: 8 [illegible] Fl.]

DECLARATION OF WILLIE LEE IN SUPPORT OF MOTION FOR INJUNCTIVE RELIEF

DECLARATION OF WILLIE LEE

I, Willie Lee, depose and say;

1. I am a tenant at 5120 Shafter Ave. #4, in Oakland, CA 94618. I am 71 years old. I have been a tenant there for about 25 years.

2. My landlord is the Oakland Housing Authority.

3. I have been served a summons and complaint in an unlawful detainer action, *Oakland Housing Authority v. Lee*, case #013197, Oakland-Piedmont-Emeryville Judicial District, seeking my eviction.

4. The unlawful detainer complaint alleges that:

> On November 6, 1997, Oakland Housing Authority officers responding to complaints of individuals using narcotics and loitering in the parking lot area of the complex, contacted defendant's grandson Robert Lee, who is listed on defendant's lease as a resident. As officers approached, Lee discarded a suspected marijuana cigarette. He was informed of the complaint and admitted to smoking marijuana. A search of Lee's left front jacked [sic] revealed a ziplock baggie containing marijuana. Lee was cited for possession of marijuana.

5. I have answered the unlawful detainer complaint denying the allegations.

6. The complaint does not allege that I had any prior knowledge of the alleged criminal activity or that I personally engaged in criminal activity, which is the basis of the eviction action.

7. I did not engage in any criminal drug activity. I had no knowledge of any criminal drug activity occuring on the premises. I did not permit activity or cause other others to engage in activity, because I had no knowledge of any activity.

8. I have informed all of the members of my household that drug related activity and criminal activity is not permitted in my home or on the premises.

I declare that the preceding is true and correct to the best of my knowledge and recollection under the penalty of perjury. Executed in Oakland on February 26, 1998.

/s/ WILLIE LEE
WILLIE LEE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

No. C-98-00781 CRB

PEARLIE RUCKER; HERMAN WALKER; WILLIE LEE AND BARBARA HILL, PLAINTIFFS

v.

HAROLD DAVIS, OAKLAND HOUSING AUTHORITY, UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, DOES I-XXX, DEFENDANTS

[DATE: May 8, 1998
TIME: 10 a.m.
DEPT.: 8 [illegible] Fl.]

DECLARATION OF HERMAN WALKER IN SUPPORT OF MOTION FOR INJUNCTIVE RELIEF

DECLARATION OF HERMAN WALKER

I, Herman Walker, depose and say;

1. I am a tenant at 1621 Harrison Street #1309, in Oakland, CA 94612. I am 75 years old. I am disabled. My feet swell, my legs, my back, and my neck are in poor condition. I have arthritis. I have problems with my stomach. I have problems walking and usually need a cane. I have been periodically put on oxygen due to shortness of breath. The left side of my body, particularly my left hand, is stiff and semi-paralyzed. When I get upset or when I am under stress, I

sometimes cannot remember what I am saying, and I suffer from disorientation, and confusion. I am hard of hearing. I am no longer capable of living independently and I require an in-home health care taker.

2. My landlord is the Oakland Housing Authority.

3. I have been served a summons and complaint in an unlawful detainer action, *Oakland Housing Authority v. Walker*, case #011040, Oakland-Piedmont-Emeryville Judicial District, seeking my eviction.

4. The unlawful detainer complaint alleges that:

> On August 7, 1997, Oakland Housing Authority officers conducting a security check at your complex, which is a senior citizen building, contacted Kelly Shine. Shine, who was not a senior citizen and very fidgety showed signs of being a narcotics user. Officers contacted Shine and a check was conducted. Officers discovered that Shine is on probation with a search clause for narcotics. Officers invoked the search privilege recovering one rock of cocaine and a cocaine pipe. Shine was arrested for possession of narcotics and paraphernalia. Shine told officers she was at your unit with a friend who lived with you. You are the only resident listed on your lease. Officers went to your unit and contacted you. You gave officers permission to search your unit, and once inside they contacted Shine's minor child, Shirley Hardaway, who was wearing a thin nightgown and appeared to be residing in your unit, Marguerite Wise and Eleanor Randle, who has had several narcotics arrests at your complex.

As officers searched your unit, they recovered a cardboard box inside your bedroom containing a plate with suspected rock cocaine chips and four metal crack cocaine pipes. Randle, who had a cocaine pipe pinned inside her jacket, was arrested for possession of narcotics paraphernalia. In addition, officers observed a large amount of women's clothing and personal items throughout you unit. You denied that anyone was residing with you. A lease violation was drafted.

A week later, August 12, 1997, OHA officers and your housing manager returned to your unit to conduct a follow-up check. During the August 7 contact with you, officers had observed a sign posted on your front door stating "oxygen no smoking." However, your guests were smoking inside your unit. During that contact officers also observed an oxygen machine and several oxygen bottles. As officers and your manager entered your unit with your permission, they again contacted Hardaway in your bedroom wearing a night gown and robe. You again denied that Hardaway resided in your unit. Officers found a rock cocaine pipe inside a bag of hair rollers. As officers informed you of the paraphernalia you stated, you could not control what people brought into your unit. A lease violation was drafted.

On October 11, 1997, Oakland Housing Authority officers conducting a security check inside your complex, contacted Eleanor Randle in the lobby area. Randle told officers she had just left your unit and her friend Shirley Hardaway was still inside your unit. Officers were aware of Randle's narcotic

activity and prior arrest at your unit. Officers contacted you in your unit and you consented to a search. Once inside, officers contacted Shirley Hardaway sitting on a sofa in your living room. Hardaway was asked to sit in another area as officers conducted their search. In the creases of your sofa where Hardaway had been sitting officers recovered a glass cocaine pipe. Hardaway admitted to using rock cocaine, but denied that the pipe belonged to her. Hardaway was cited for possession of narcotics paraphernalia.

5. I have informed all of my family members, my caretakers, and my guests, that drug related activity and criminal activity are not permitted in my home or on the premises.

6. The complaint does not allege that I had any prior knowledge of the alleged criminal activity or that I personally engaged in criminal activity, which is the basis of the eviction action.

7. I have answered the complaint denying the allegations.

8. My in-home caretaker was Eleanor Randle. I fired her shortly after I learned that she had been accused of drug activity in my apartment.

9. I did not engage in any criminal drug activity. I had no knowledge of any criminal drug activity occuring on the permises. I did not permit activity or cause other others to engage in activity, because I had no knowledge of any activity.

I declare that the preceding is true and correct to the best of my knowledge and recollection under the penalty of perjury. Executed in Oakland on March 2, 1998.

/s/ HERMAN WALKER
HERMAN WALKER

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

No. C-98-00781 CRB

PEARLIE RUCKER, HERMAN WALKER, WILLIE LEE AND BARBARA HILL, PLAINTIFFS

v.

HAROLD DAVIS, OAKLAND HOUSING AUTHORITY, UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, DOES I-XXX, DEFENDANTS

[DATE: May 8, 1998
TIME: 10 a.m.
DEPT.: 8 [illegible] Fl.]

DECLARATION OF PEARLIE RUCKER IN SUPPORT OF MOTION FOR INJUNCTIVE RELIEF

DECLARATION OF PEARLIE RUCKER

I, Pearlie Rucker, depose and say;

1. I am a tenant at 2005 East 21st Street #102, Oakland CA 94606. I am 63 years old. I have been a tenant there for about 21 years.

2. My landlord is the Oakland Housing Authority.

3. I have been served a summons and complaint in an unlawful detainer action, *Oakland Housing*

Authority v. Rucker, case #012528, Oakland-Piedmont-Emeryville Judicial District, seeking my eviction.

4. The unlawful detainer complaint alleges that:

> On March 9, 1997, and Oakland Housing Authority officer on patrol in the 2200 block of E. 19th Street, observed defendant's daughter Gelinda Rucker, who is listed on defendant's lease as a resident, drinking an alcoholic beverage in public. When the officer contacted Rucker she attempted to conceal the alcohol. Rucker, who was near defendant's complex, appeared to be under the influence and was arrested for being drunk in public. A search of Rucker revealed one rock of suspected cocaine and a crack cocaine pipe. She was additionally charged with possession of narcotics and paraphernalia. Rucker listed defendant's address as her residence.
>
> On September 19, 1997, Oakland police officers on patrol in the 1400 block of 23rd Avenue, which is an area high in use and sale of narcotics, observed defendant's son Michael Rucker and William Knight loitering at a bus stop. Rucker was contacted and subsequently arrested for a warrant. As officers searched Rucker, they recovered a piece of rock cocaine. He was additionally charged with possession of narcotics. Rucker, who is not listed on defendant's lease as a resident, listed defendant's address as his residence.

5. I have answered the unlawful detainer complaint denying the allegations.

6. My son, Michael Rucker, has not lived with me since the early 1980's.

7. My daughter, Gelinda Rucker, is severely mentally disabled. She was born with a mental disability. She started seeing a psychiatrist when she was 13 or 14 years old. The doctor said she had to be on regular medication. She began taking a medication which the doctor prescribed, I think it was prozac. She is incapable of caring for herself or for her children. As a result, I am the primary caregiver for my grandchildren. For her mental disability, my daughter receives SSI. About seven years ago I suspected my daughter had an alcohol problem based on physical observation, and I had her placed in a residential drug and alcohol treatment program. When she got out of the program, I thought she had been cured. When I first suspected that she had an alcohol problem, I began searching her room when I cleaned it, about once or twice a week, for any evidence of drug or alcohol problems. I have continued to do so over the last 7 years or so, up through the present. I have never found any drugs or drug paraphernalia. I have found beer cans and occasionally a wine bottle. Prior to her recent arrest, I never observed any physical signs of drug use. She is presently incarcerated and in a drug program.

8. The complaint does not allege that I had any prior knowledge of the alleged criminal activity or that I personally engaged in criminal activity, which is the basis of the eviction action.

9. I did not engage in any criminal drug activity. I had no knowledge of any criminal drug activity occuring on the premises. I did not permit activity or

cause other others to engage in activity, because I had no knowledge of any activity.

10. I have informed all of my family members that drug related activity is not permitted in my home or on the premises.

I declare that the preceding is true and correct to the best of my knowledge and recollection under the penalty of perjury. Executed in Oakland on March 3, 1998.

/s/ PEARLIE RUCKER
PEARLIE RUCKER

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-98-00781

PEARLIE RUCKER, ET AL., PLAINTIFFS

v.

HAROLD DAVIS, ET AL., DEFENDANTS

Filed: Apr. 17, 1998

DECLARATION OF RON SMITH IN OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

I, Ron Smith, declare:

1. I am a Housing Manager for the Western District of defendant Oakland Housing Authority ("OHA"). I make this declaration of my own personal knowledge and can competently testify thereto if called as a witness.

2. I manage OHA's apartments located at 2005 East 21st Street, Apt. 102, Oakland, including, the apartment leased by plaintiff, Pearlie Rucker.

3. Ms. Rucker has signed a lease, which at Paragraph 9, details the obligations of the tenant and his or her guests and members of household, in pertinent part:

Tenant is also responsible for causing members of her household and guests to comply with the following: . . .

m. To assure that tenant, any member of the household, a guest, or another person under the tenant's control, shall not engage in: (i) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other public housing residents, . . . (ii) Any drug-related criminal activity on or near the premises (e.g., manufacture, sale, distribution, use, or possession of illegal drugs or drug paraphernalia, etc.)

(A true and correct copy of Ms. Rucker's lease is attached hereto as Exhibit "A".)

4. Paragraph 12 of the lease provides OHA with a right to inspect the units, as follows:

c. Management may enter tenant's dwelling unit as follows:

1) Management shall provide Tenant with two days written notice stating the purpose of its entry to the dwelling unit. Management entry shall be between the hours of 8:00 a.m. and 4:30 p.m. for the purpose of performing routine inspections and maintenance and for making repairs and improvements.

2) Management may enter the premises at any time without advance notification when there is a reasonable cause to believe an emergency exists.

5. Inspections of units are conducted when, among other things, tenants are suspected of lease violations, including violations of Paragraph 9.

6. As far as I am aware, all leases, including those of private landlords, include provisions similar to Paragraph 12, allowing the landlord/housing manager to inspect its property under like circumstances.

7. In addition to executing the lease, on a yearly basis, Ms. Rucker signs a form entitled "Occupant's Responsibility," which provides, in pertinent part:

As I am the lessee of this apartment, I am responsible for all damages and the conduct of all activities in my apartment. Should I violate the terms and conditions of my lease, I am aware that I could be subject to legal action.

(A true and correct copy of the Occupant's Responsibility form most recently executed by Ms. Rucker is attached hereto as Exhibit "B".)

8. Further, Ms. Rucker signs a yearly form entitled "Tenant Agreement To Maintain Drug-Free Environment," which provides, in pertinent part:

I am aware of the fact that Paragraph 9, Section m, of my lease specifically prohibits me, my household members or guest from using, selling or possessing any illegal drugs or drug paraphernalia on the Oakland Housing Authority (OHA) property. I also understand that if I or any member of my household or guest should violate this lease provision, I may face eviction action against me to terminate my tenancy with the Housing Authority.

(A true and correct copy of the Tenant Agreement To Maintain Drug-Free Environment form most recently executed by Ms. Rucker is attached hereto as Exhibit "C".)

9. When an apartment is vacated, OHA leases the apartment to the next person listed on a prioritized waiting list.

10. If an inspection of an apartment is conducted on the basis that a tenant and/or guest and/or member of the household is believed to be in violation of Paragraph 9, section m, by using, selling or possessing any illegal drugs or drug paraphernalia on OHA property, that inspection is done for the purpose of determining violations of the lease, and not for purposes of investigating and/or prosecuting for any criminal conduct.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on April 16, 1998 in the city of Oakland, County of Alameda, California.

/s/ RON SMITH
RON SMITH

OHA\RUCK\SMITH.DEC

HOUSING AUTHORITY OF THE CITY OF OAKLAND CALIFORNIA

TENANT LEASE

Name of Tenant PEARLINE D. RUCKER

Account/Client No. 230581/408468

Tenant _____

Dwelling Unit No. 102

Number of Bedrooms (Unit Size) 4

Address 2005 E 21st Street #102,

Oakland, CA 94606-4270

Monthly Rent $ 261.00

Effective Date: February 1, 1997

The Housing Authority of the City of Oakland, California (Management) leases to PEARLINE D. RUCKER (Tenant), the dwelling unit described above under the terms and conditions stated within this lease. Except where otherwise indicated, the term "dwelling unit" refers to the apartment unit and adjacent area assigned for the Tenant's exclusive use and to the area(s) assigned in paragraph 10 of this lease.

1. **TERM OF THE LEASE**
   This lease is for a period of one calendar month.

2. **RENEWAL OF LEASE**
   This lease shall automatically renew each calendar month, unless terminated by either Management or Tenant as provided in this lease.

3. **MEMBERS OF HOUSEHOLD**
   Only the following persons may live in the dwelling unit with the named Tenant:

Name	Date of Birth	Social Security #
RUCKER, GELINDA	05/16/54	573-21-2526
FLETCHER, JACQUELINE	06/15/78	548-69-3773
ROBINSON, LATASHA	05/15/82	557-75-8995

4. **USE OF THE DWELLING UNIT BY MEMBERS OF THE HOUSEHOLD**

   No one other than those persons listed above may live in the dwelling unit for more than fourteen (14) days with the Tenant. (See paragraph 7.) Tenant is responsible for notifying Management of any change in his/her household within fourteen (14) days after the change occurs.

5. **PAYMENTS DUE UNDER THE LEASE**

   a. **Rental Payments**

      1) The first rent payment for the period beginning ____, 19___, and ending ____, 19__, is $___. This payment is due at the time this lease is signed.

      2) The monthly rent of $ 261.00 is due on or before the first of each month beginning February 1, 1997. This month rent may change

for reasons stated in Paragraph 6 of this lease.

3) The Tenant shall be responsible for rent for thirty (30) days after they give written notice of their intent to vacate; or in the absence of such written notice, for thirty (30) days from the day Management learns of the vacancy. If the end of this thirty (30) day period does not coincide with the end of a month, the rent due under this provision shall be prorated at a daily charge of 1/30 of the monthly rent amount.

4) If Tenant is transferring from one Oakland Housing Authority apartment to another, any charges due under the previous leases are due under this lease.

b. **Utilities**

Management shall pay the full cost of the following utilities and services:

1) Water, garbage collection, sewer service

2) The following will be provided or furnished by Management

YES	NO		YES	NO	
☐	☒	Gas	☐	☒	Gas Range
☐	☒	Electricity	☐	☒	Electric Range
☐	☒	Heat	☐	☒	Refrigerator

Tenant is responsible for the provision and payment of the full cost of any other utilities used. Management is not responsible for failure to furnish utilities by reason of any cause beyond its control.

c. **MAINTENANCE AND REPAIR CHARGES**

Tenant shall pay such charges for the repair of those damages which are beyond normal wear and tear to the dwelling unit, development buildings, facilities or common areas and for the cleaning and extermination made necessary by the action(s) or neglect of the Tenant, members of the household or guests.

All charges shall be billed according to the Schedule of Charges for Services or Repairs posted in the District and Central Management offices. The Charge schedule may be changed from time to time by Management and will be posted for thirty (30) days by Management before its effective date. Such schedule or its revisions are incorporated by reference herein. The bill shall specify the damages, work done, and the cost. Payment shall not be due until two weeks after written notice to the tenant of the charges.

d. **SECURITY DEPOSIT**

1. **Amount**

Tenant shall pay for a Security Deposit of the lesser of two hundred fifty dollars ($250.00) or the equivalent of two months gross rent.

2. **Payment method**

a. Payment of the security deposit as determined in #1 above, is due at move-in unless the resident provides a stove, or in the case of extreme hardship.

b. If a resident provides a stove, or in the case of extreme hardship, the resident shall pay the security deposit in installments as follows:

Upon commencement of tenancy, tenant shall pay fifty dollars ($50.00) of the security deposit. The balance shall be paid in ten (10) equal installments (rounded off to the nearest dollar), with the first installment due at the beginning of the second month of tenancy.

The security deposit shall be used by Management at lease termination to pay for the cost of repair of damages, (including cleaning of the dwelling unit, development buildings, facilities, and common areas) caused by the Tenant, members of the household, or guests. The security deposit shall also be used by Management to apply to any rent or other charges owed by the Tenant at lease termination.

Management shall return the security deposit or any balance of the deposit within fourteen (14) days after the Tenant vacates the dwelling unit.

6. **REDETERMINATION OF RENT, DWELLING UNIT SIZE AND ELIGIBILITY**

a. Tenant shall report to Management within fourteen (14) days of occurrence, any change in the household composition (such as changes in the number of persons in the household). Failure to do so will result in a lease violation which may cause Management to take steps to terminate the lease.

b. All determinations, referred to in this paragraph shall be made in accordance with Management's approved Occupancy Policy and Schedule of Rents, available in the District Housing Management Office.

c. **Regular Redeterminations**

1) Management shall periodically determine:

a) Whether Tenant's rent should be changed.

b) Whether Tenant's dwelling unit size is still appropriate for Tenant's family composition.

2) The periodic determination referred to in section c. 1) above shall occur:

a) Upon occupancy.
b) Once each year.
c) Other times as needed.

3) As requested by Management at the time specified in section c.2 above, Tenant shall provide accurate, written, current, verifiable information to Management as to:

a. Composition of household (number of people in Tenant's household, their sex and any other information required by Management).

b. The source and amount of income received by everyone in Tenant's household. Current written verification acceptable to Management must be provided within fifteen (15) days of notification to Tenant.

c. Any unusual expenses or circumstances which create a financial burden on the household (For example, some medical costs or child care costs may be considered unusual expenses, when verified in writing).

Failure to do so is a material violation of this lease.

d. Interim Redeterminations

1) The rent shown in paragraph 5, or as adjusted as set forth herein, shall remain in effect during the period between regular redeterminations unless Tenant's rent should be adjusted in accordance with the Authority's Occupancy Policy and Schedule of Rents. The Tenant is responsible for providing written proof of such change to Management.

2) When Tenant reports a change in household circumstances (such as a decrease in income) Tenant's rent shall be redetermined and adjusted as indicated by the Authority's Occupancy Policy Schedule of Rents.

3) In the event Tenant's rent is reduced as set forth herein, Tenant shall within thirty (30) days of occurrence report any further change in family circumstances (such as an increase in income) which occur prior to the next regular redetermination

e. If Management determines that the size of the Tenant's present unit is no longer appropriate to Tenant's household composition in accordance with the Authority's Occupancy Policy, the Tenant shall move to a unit of an appropriate size within thirty (30) days of notification by Management of the availability of an appropriate size vacant dwelling unit. If the tenant fails to move as requested by Management, Management has the right to take appropriate legal action, as determined by Management.

f. When the Tenant does not agree with Management's redetermination of the amount of rent payable by the Tenant (not including determination of the Housing Authority's schedule of Utility Allowances) or determines that the Tenant must transfer to another unit based on family composition, the Tenant may ask for an explanation of the determination and request a hearing under the Housing Authority's Grievance Procedures.

7. TENANT'S RIGHT TO USE AND OCCUPY

Tenant's household has the right to exclusive use and occupancy of the dwelling unit. This right includes having guests stay in the dwelling unit up to fourteen (14) days, or a longer period only when the prior written consent of Management has been obtained.

8. MANAGEMENT'S OBLIGATIONS

Management is obligated to:

a. Maintain the dwelling unit, development buildings, facilities, and common areas in a decent, safe and sanitary condition

b. Comply with the requirements of the applicable building codes, housing codes, and regulations of the Department of Housing and Urban Development (HUD), materially affecting health and safety.

c. Make necessary repairs to the premises.

d. Keep development buildings, facilities, and common areas, not otherwise assigned to tenants for maintenance and upkeep in a clean and safe condition.

e. Maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating, and other facilities and appliances, including elevators, supplies or required to be supplied by Management.

f. Provide and maintain trash and garbage receptacles for the deposit of garbage, rubbish and other waste removed from the dwelling unit by the tenant in accordance with paragraph 9.h of this lease.

g. Supply running water and reasonable amounts of hot water and reasonable amounts of heat at appropriate times of the year (according to local custom and usage) except where heat or hot water is generated by an installation within the Tenant's exclusive control is supplied by a direct utility connection.

h. Notify tenant of the specific grounds for any proposed adverse action by Management.

9. OBLIGATIONS OF TENANT, MEMBERS OF HOUSEHOLD, AND GUESTS

Tenant is obligated to comply with the following rules. Tenant is also responsible for causing members of the household and guests to comply with the following.

a. To pay rent when due (see Paragraph 5, a).

b. Not to assign the lease or to sublease the dwelling unit.

c. Not to provide accommodations for boarders or lodgers.

d. To use the dwelling unit solely as a private dwelling for the Tenant and the Tenant's household as identified in Paragraph 3, and not to use the dwelling unit or permit its use for any other purpose.

e. To abide by the House Rules for the benefit and well-being of the housing development and the tenants as posted in the District Office, and by this reference incorporated herein.

f. To comply with all obligations imposed upon Tenants by applicable provisions of building and housing codes materially affecting health and safety, incorporated herein.

g. To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition (E.G. if required resident must provide an operating stove.)

h. To dispose of all garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner

i. To use only in a reasonable manner all electrical, plumbing, heating, ventilating, air conditioning, elevators and other facilities and appurtenances in the development buildings and common areas.

j. To refrain from scattering rubbish, destroying, defacing, damaging, or removing any part of the dwelling unit or development.

k. To pay reasonable charges (other than for wear and tear) for the repair of damages to the dwelling unit, development, buildings, facilities,

or common areas caused by either intentional or negligent conduct of Tenant, members of the household, or guests.

l. To conduct himself/herself and cause other persons who are in the dwelling unit or in the common area of development with Tenant's consent to conduct themselves in a manner which will not disturb neighbors (including those neighbors who are not tenants of low rent public housings) peaceful enjoyment of their housing and which will be conducive to maintaining the development in a decent, safe and sanitary condition.

m. To assure that the tenant, any member of the household, a guest, or another person under the tenant's control, shall not engage in
(i) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other public housing residents, or threatens the health and safety of the housing authority employees (e.g., violent acts, possession of illegal firearms, electrical/gas meter tampering, etc.)
(ii) Any drug-related criminal activity on or near the premise (e.g., manufacture, sale distribution, use, or possession of illegal drugs or drug paraphernalia, etc.)

n. Not to make any repairs or alterations or install permanently affixed carpet or any equipment including antennas, or to use a water bed without the prior written consent of Management.

o. Not to keep or permit to keep any dogs, cats, or other pets in or about the premises which results in a risk to personal health or safety of any person or damage to property.

p. Not to create (by act or omission) or permit to exist any condition on the premises which results in risk to personal health or safety of any person or damage to property (if required resident must provide for the uninterrupted provision of electric and gas services.)

q. To immediately report to Central Maintenance any vandalism to the premises and any need for repair to the interior or exterior of the dwelling unit and any other area used by the Tenant in connection with the Tenant's occupancy of the dwelling unit.

r. To participate in a training program on housekeeping and home care skills if requested to so by the Management. Such training shall be provided by Management.

10. GROUNDS MAINTENANCE

Tenant shall maintain walkways, stairs, landings, hallways, grounds, patios, and landscaping adjacent to the dwelling unit. Management must be notified if the Tenant is unable to maintain the grounds due to the age or physical condition in the event Tenant neglects to maintain the areas assigned. Tenant shall pay to Management all expenses necessary for Management to maintain or repair these areas.

11. Hazardous Defects

Tenant shall take every care to prevent fires, not to keep any gasoline or gasoline operated device, solvents, or other combustible materials or substances in any part of or around the apartment, balconies, or enclosed spaces and to exercise particular caution with respect to children playing with matches and/or lighters.

In the event the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health or safety of the occupants

a. Tenant shall immediately notify the fire department (in case of fire), Central Maintenance, Security and Management

b. Management shall be responsible for repair of the dwelling unit within a reasonable time. If the damage is caused by Tenant, members of the household or guests, Tenant shall pay the reasonable costs of repair.

c. Management shall offer standard alternative housing, if available, where necessary repairs cannot be made in a reasonable time.

d. In the event repairs are not made within a reasonable time, or alternative housing is not available, Tenant shall pay a lower rent in proportion to the seriousness of the damage and loss of value as a dwelling. Tenant shall not pay a lower rent if s/he refuses the decent, safe and sanitary alternative housing or if the damage was caused by Tenant, members of the household or guests.

12. INSPECTIONS AND ACCESS

a. Before move-in, Management and Tenant shall inspect the dwelling unit. Management shall give Tenant a written statement of conditions of the dwelling unit and the equipment provided with the unit. The statement shall be verified and signed by Management and Tenant.

b. When Tenant moves out, Management shall inspect the unit and furnish tenant with a written statement of damages for which Tenant is responsible. Such statement is subject to modification upon further inspection by the Maintenance Department. Tenant may inspect the unit with Management unless Tenant leaves without giving prior notice.

c. Management may enter tenant's dwelling unit as follows:

1) Management shall provide Tenant with two days written notice stating the purpose of its entry to the dwelling unit. Management entry shall be between the hours of 8:00 and 4:30 p.m. for the purposes of performing routine inspections and maintenance and for making repairs and improvements.

2) Management may enter the premises at any time without advance notification when there is a reasonable cause to believe that an emergency exists, and

3) If all adult members of the household are absent at the time of entry, Management shall leave in the dwelling unit a written

statement specifying the date, time and purpose of entry.

13. NOTICE

a. Any notice to Tenant from Management shall be in writing, a) delivered personally to Tenant or to an adult member of Tenant's household, or b) sent by prepaid first class mail properly addressed to Tenant. If the Tenant is visually impaired, any notice to the tenant of an adverse action will be in an accessible format.

b. Any notice Tenant gives to Management shall be in writing, delivered either to the District Management Office responsible for the development in which the dwelling unit is located, or Management's Central Office.

14. TERMINATION OF THE LEASE

a. This lease may be terminated by Tenant at any time by giving thirty (30) days written notice to Management in the manner specified in Paragraph 13. Tenant shall leave the dwelling unit in a clean and good condition and return the keys to Management when Tenant moves out.

b. If, though any cause, a signer of the lease ceases to be a member of Tenant's household, this lease shall terminate. A new lease may be executed and signed by the responsible remaining adult member of the household provided s/he conduct his or herself as required by the terms and provisions of the lease and the family continues to be eligible for low-rent housing.

c. If Tenant transfers to another apartment operated by Management, this lease shall terminate and a new lease shall be executed for the dwelling unit into which Tenant moves.

d. Management may terminate or refuse to renew this lease for the Tenant's serious or repeated violation of material terms of this lease, such as not making payments due, not complying with paragraph 9, or other good cause.

e. Management shall give Tenant written notice of termination of the lease, stating specific grounds for termination, and informing the tenant of the right to examine documents in the tenant's file directly related to the termination of tenancy, by:

1) Fourteen (14) days in the case of failure to pay rent;

2) A reasonable time proportionate to the urgency of the situation in the case of creation or maintenance of a threat to the health or safety of other tenants or Management's employees. Under this provision, Management considers any fire caused by the action or failure to act on the part of the Tenant, household members, or guests as grounds for termination of the lease for the affected apartment or other apartment to which the Tenant and Tenant's household have been transferred. Management also considers any criminal activity that threatens the health, safety or right to peaceful enjoyment of the development by other residents or any drug-related activity on or

near such premises by Tenant, members of household, or guests as grounds for termination under this provision.

3) Thirty (30) days in all other cases.

15. ABANDONMENT OF PROPERTY

If Tenant is absent from the dwelling unit for fourteen (14) consecutive days and rent is owed. Tenant shall, at the option of Management, be considered to have abandoned the dwelling unit. Management may then proceed to repossess the unit and dispose of the tenant's personal property pursuant to state law.

16. WAIVER OF LEASE PROVISIONS

Management does not give up any of its rights to enforce the provisions of this lease unless it does so in writing. For example, Management does not give up its right to pursue an eviction action if it collects rent knowing that Tenant has not fulfilled Tenant's responsibilities under this lease.

17. GRIEVANCE PROCEDURE

All disputes about the lease or concerning the responsibilities of Tenant's household or Management shall be resolved in accordance with the Oakland Housing Authority Grievance Procedure. The Grievance Procedure is posted in the District and Central Management Offices and is incorporated in this lease by reference.

18. ATTORNEY FEES AND COURT COSTS

In the event that the Authority or Tenant shall commence any legal action or proceeding against the other to enforce any convenant, term or con-

dition of this lease, the prevailing party shall be entitled to recover an award of reasonable attorney fees and court costs.

19. PROVISION FOR MODIFICATION

a. Changes to this lease, other than changes in Tenant rent amount, shall be written addendum signed by both Management and Tenant.

b. The Schedule of Charges for Service and Repairs, Schedule of Rents, Re-examination Schedule, House Rules, and Grievance Procedure, all incorporated into this lease by reference, may be changed from time-to-time by Management. Tenant shall be given thirty (30) days written notice setting forth the proposed changes, the reasons for them, and providing Tenant with an opportunity to make written comments. Tenant's written comments shall be taken into consideration by Management before the proposed changes become effective. A copy of such notice shall be

1) Delivered directly or mailed to Tenant; or

2) Posted in the District and Central Management Offices.

By signing below, Tenant and Management enter into this lease which shall take effect on the "Effective date" shown on the top of page 1 of this lease.

HOUSING AUTHORITY
OF THE CITY OF
OAKLAND, CALIFORNIA

PEARLIE RUCKER 12-17-96
TENANT (Date)

By (illegible) 12-17-96
PHA (Date)

_____
TENANT (Date)

Title Housing Manager
PHA (Date)

OHA OAKLAND HOUSING AUTHORITY

OCCUPANT'S RESPONSIBILITY

I, the undersigned, am aware that under the terms and conditions of the Housing Lease I just signed that it is a violation to allow anyone not listed on my lease to reside in my apartment.

As I am the lessee of this apartment, I am responsible for all damages and the conduct of all activities in my apartment.

Should I violate the terms and conditions of my lease, I am aware that I could be subject to legal action.

Lessee PEARLIE RUCKER
PEARLIE RUCKER

Date 4/13/98

WD 230581 408468
RUCKER, PEARLIE
2005 E 21ST. 102
OAKLAND, CA 94606-4270

Witnessed RONALD SMITH
RONALD SMITH
Housing Manager

Date 4/13/98

HE 9007

OKLAND HOUSING AUTHORITY

TENANT AGREEMENT TO MAINTAIN A DRUG-FREE ENVIRONMENT

The Okland Housing Authority's (OHA) police on drugs and drug-related criminal activity has been explained to me by my Housing Manager. Additionally, I have been told about the federal regulation regarding the "One Strike" policy, which states that I may be evicted from public housing for illegal use of a controlled substance or abuse of alcohol which interferes with the health, safety, or right of peaceful enjoyment of the premises by other residents by myself, any member of my household or guests.

I am aware of Paragrah 9, Section M, of my Lease Agreement which specifically prohibits the use, sale or possession of any illegal drugs or drug paraphernalia on OHA property by myself, any member of my household or guests. I am also aware that any drug-related criminal activity on or off the premises, not just on or near the premises, by myself or any member of my household is prohibited. I understand that if I or any member of my household or guests should violate this lease provision, my tenancy may be terminated and I may be evicted.

I agree to comply with the OHA's policy regarding drugs and drug-related criminal activity and to do all I can to prevent the use, sale or possession of drugs in my unit or the involvement in drug-related criminal activity by my household or guests. I also agree to inform all my household members and guests of OHA's policy regarding drugs and drug-related criminal activity.

/s/ PEARLIE RUCKER — 4/13/98
Resident — Date

RONALD SMITH — 4/13/98
Housing Manager — Date